

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-9, and 11-16 are currently pending. Claims 1, 3, 4, 6-9, and 11-16 have been amended; and Claim 17 has been cancelled by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 1, 4, 6-9, and 11-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0026424 to Akashi (hereinafter “the ‘424 application”); Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘424 application; and Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘424 application in view of U.S. Patent No. 7,127,431 to Kambayashi et al. (hereinafter “the ‘431 patent”).

REJECTION UNDER 35 U.S.C. § 102

Claim 1 is directed to

[a]n information processing apparatus configured to operate content information according to usage conditions described in license information, comprising:

a storage unit configured to store first license information corresponding to the content information, the first license information including a first usage condition;

a receiving unit configured to receive second license information corresponding to the content information from a license server, the second license information including a second usage condition and usage right type information; and

a license processing unit configured to determine whether the second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information, and to combine the first license information and the second license information based on the determination of whether the second

license information is of the add attribute or the overwrite attribute,

wherein the content information is operated according to license information obtained by combining the first license information and the second license information, and

the storage unit is configured to store the license information obtained by combining the first license information and the second license information.

Regarding the rejection of Claim 1 under 35 U.S.C. § 102(e), the ‘424 application is directed to a license issuing and contents reproducing device/method. In particular, the ‘424 application discusses that a license issuing device encrypts license information of contents desired by a user with a device ID of a memory card carried by the user, and writes the encrypted license information in the memory card. Further, the ‘424 application discusses that a contents reproducing device decrypts the license information written in the memory card carried by the user with the device ID of the memory card. The ‘424 contents reproducing device decrypts encrypted contents, corresponding to the contents of which use is permitted in the decrypted license information, and reproduces the decrypted contents.¹

The outstanding Office Action appears to cite the ‘424 memory card 100, including encrypted license information, for teaching the claimed “storage unit”; and the ‘424 output of a contents use condition from contents use condition input means 230, included in the license issuing device, for teaching the claimed “receiving unit.” Further, the Office Action cites the ‘424 content use condition updating means 910, linking means 920, and encryption means 930 for teaching the claimed “license processing unit,” and for teaching that “the license processing unit is configured to determine whether the second license information is of the add attribute or the overwrite attribute based on a usage right type flag included in the second license information.”²

¹ See ‘424 application, Abstract.

² See Office Action dated December 5, 2008, pages 3 and 4.

However, it is respectfully submitted that the '424 application fails to disclose an information processing apparatus configured to operate content information according to usage conditions described in license information comprising a storage unit, a receiving unit, and a license processing unit, as defined in Claim 1. Rather, the Office Action appears to cite the license issuing device 200 for teaching the claimed storage unit and receiving unit, while citing the contents reproducing device 900 for teaching the claimed license processing unit.³ That is, the '424 application discusses that the asserted units are included in **different devices**. The '424 application does not disclose that the license issuing device 200 is configured to *operate content information* according to usage conditions described in license information. Further, the '424 application does not disclose that either of the license issuing device 200 or the contents reproducing device 900, alone, includes the storage unit, the receiving unit, and the license processing unit defined in Claim 1.

Further, it is respectfully submitted that the '424 application fails to disclose a receiving unit configured to receive second license information corresponding to the content information from a license server, the second license information including a second usage condition and usage right type information. Rather, as noted in the Office Action, the '424 application discusses that a license issuing device 200 encrypts license information permitting use of the contents desired by the user with a device ID of the memory card 100 carried by the user and writes the encrypted license information in the memory card 100.⁴ The '424 application discusses that the license issuing device 200 includes a contents ID input means 220 that outputs contents ID of the contents designated by the user and contents use condition means 230 that outputs a contents use condition.⁵ The '424 application does not disclose that the contents ID (i.e., the asserted first license information) and the contents use condition (i.e., the asserted second license information) include *a first usage condition*

³ See Office Action dated December 5, 2008, pages 3 and 4.

⁴ See '424 application, paragraph [0059].

⁵ Id. at paragraphs [0068], [0070], and [0071].

and a second usage condition, respectively. Further, the '424 application does not disclose that the contents use condition includes *usage right type information*.

Moreover, it is respectfully submitted that the '424 application fails to disclose a license processing unit configured to **determine whether the second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information**, and to combine the first license information and the second license information based on the determination of whether the second license information is of the add attribute or the overwrite attribute. Rather, as noted in the Office Action, the '424 application discusses

receiving a detected signal indicating completion of reproduction of contents, and also outputting the contents use condition. Upon receipt of the reproduction detected signal, the use condition updating means reads the content use condition and produces updated content use condition by updating the contents use condition. See paragraphs [0143] & [0144]. Further, the linking means links the updated content use condition from the contents use condition updating means with the content ID to produce updated license information (see paragraph [0145]).⁶

The Office Action asserts that, thus, a determination is being made before the content is updated and linked. However, as noted in the Office Action, the '424 application simply discusses that the content is updated and linked **on receipt of the reproduction detected signal**.⁷ The '424 application does not disclose that the contents use condition updating means 910, linking means 920, or encryption means 930 *determines whether the second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information*. Further, the '424 application does not disclose that the content is updated and linked based on a determination of whether second license information is of an add attribute or an overwrite attribute.

⁶ See Office Action dated December 5, 2008, page 3.

⁷ See '424 application, paragraph [0151].

Accordingly, it is respectfully submitted that Claim 1 (and all associated dependent claims) patentably defines over the '424 application.

Claim 9 recites, in part,

receiving second license information corresponding to the content information from a license server, the second license information including a second usage condition and usage right type information;

determining, by a processor, whether said second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information; [and]

combining a part or all of said second license information with the first license information on the basis of a result of the determining.

As noted above, the '424 application fails to disclose the receiving unit and the license processing unit recited in Claim 1. Thus, the '424 application fails to disclose the method of Claim 9. Accordingly, it is respectfully submitted that Claim 9 (and all associated dependent claims) patentably defines over the '424 application.

Claim 15 recites limitations analogous to the limitations recited in Claim 1, although of differing class and/or scope. Accordingly, for reasons analogous to the reasons stated above for the patentability of Claim 1, it is respectfully submitted that Claim 15 patentably defines over the '424 application.

Dependent Claim 16 is directed to the information processing apparatus according to Claim 1, wherein

the first license information and the second license information have the same data structure, and include the same plurality of types of information.

Regarding the rejection of Claim 16 under 35 U.S.C. § 102(e), the outstanding Office Action asserts that the '424 application teaches that the first license information and the second license information have the same data structure, as discussed with respect to the

rejection of Claim 1.⁸ However, with respect to the ‘424 contents ID (i.e., the asserted first license information) and contents use condition (i.e., the asserted second license information), the ‘424 application simply discusses that the contents ID and contents use condition refer to a code for identifying the contents and information indicating a restriction on the occasion of use of contents, respectively. The ‘424 application does not disclose that the ‘424 contents ID and contents use condition *have the same data structure*, and *include the same plurality of types of information*. Accordingly, it is respectfully submitted that dependent Claim 16 patentably defines over the ‘424 application.

REJECTION UNDER 35 U.S.C. § 103

Regarding the rejection of Claim 3 under 35 U.S.C. § 103(a), the Office Action simply asserts that

[a]s for overwriting the first license information with the second license information this is considered nonfunctional descriptive material. The overwriting step would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 271 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to overwrite information with any type of content because of the subjective interpretation of the data does not patentably distinguish the claimed invention.⁹

However, Claim 3 recites “wherein, when the second license information is determined to be of the overwrite attribute, **the license processing unit is configured to** write a part or all of the second license information over said first license information.” Applicant traverses the assertion that overwriting the first license information with the second license information is considered nonfunctional descriptive material, as the recited “write a

⁸ See Office Action dated December 5, 2009, page 4.

⁹ Id. at page 5.

part or all of the second license information over said first license information” clearly defines the configuration of the license processing unit. Further, it is unclear why the writing is considered nonfunctional descriptive material, which is defined as including but not limited to music, literary works, and a compilation or mere arrangement of data.¹⁰

Further, the ‘424 application discusses that in the overwriting step, the license information stored in the license storing device carried by the user is overwritten with the updated license information encrypted in the encrypting step.¹¹ However, as noted above, the ‘424 application fails to disclose “a license processing unit configured to determine whether the second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information,” as defined in Claim 1. Thus, the ‘424 application does not disclose writing a part or all of the updated license information over the license information when the updated license information *is determined to be the overwrite attribute*.

Accordingly, it is respectfully requested that the rejection of dependent Claim 3 as being unpatentable over the ‘424 application be withdrawn.

Regarding the rejection of dependent Claim 5 under 35 U.S.C. § 103(a), it is respectfully submitted that the ‘431 patent fails to remedy the deficiencies of the ‘424 application, as discussed above. Accordingly, it is respectfully submitted that dependent Claim 5 patentably defines over any proper combination of the ‘424 application and the ‘431 patent.

¹⁰ See MPEP § 2106.01.

¹¹ See ‘424 application, paragraph [0044].

CONCLUSION

Thus, it is respectfully submitted that independent Claims 1, 9, and 15 (and all associated dependent claims) patentably define over any proper combination of the '424 application and the '431 patent.

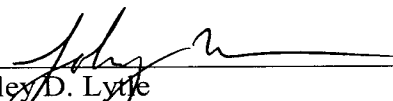
Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Johnny Ma
Registration No. 59,976